



Deval L. Patrick  
Governor

Timothy P. Murray  
Lieutenant Governor

# *The Commonwealth of Massachusetts*

## *Department of Public Safety*

*One Ashburton Place, Room 1301*

*Boston, Massachusetts 02108-1618*

*Phone (617) 727-3200*

*Fax (617) 727-5732*

*TTY (617) 727-0019*

*[www.mass.gov/dps](http://www.mass.gov/dps)*

Kevin M. Burke  
Secretary

Thomas G. Gatzunis, P.E.  
Commissioner

December 10, 2008

### **NOTICE OF PUBLIC HEARING**

Under the provisions of G.L. c. 30A, and pursuant to G.L. c. 143, §71J, the Recreational Tramway Board will hold a public hearing for purposes of gathering comments, ideas, and information concerning the following regulations:

526 CMR 10.02(2): Insurance. Culling out exception to insurance requirement for licensure; and  
526 CMR 10.16: Signs. Establishing a system of safety signs for ski areas.

Scheduled Hearing Date:

Tuesday, February 24, 2009 at 11 A.M.

Location: Wachusett Mountain, Princeton, MA

Copies of the proposed regulation may be reviewed by logging on to the Department of Public Safety's website at [www.mass.gov/dps](http://www.mass.gov/dps) or from the Department of Public Safety, One Ashburton Place, Room 1301, Boston, MA 02108. Anyone who desires to be heard on the matter should appear at the designated time and place or forward written comments to the Board prior to the hearing date.

10.16 Signs

(1) General

Section 10.16 was promulgated under the authority of G.L. c.143, §71J. All signs governed by 526 CMR 10.16 shall be a minimum of 14 inches by 14 inches, unless specifically indicated otherwise. The coloring used in all signs described herein shall be clear, contrasting, and well defined. Additionally, all signs shall be maintained so as to be readable and recognizable under conditions of ordinary visibility.

(2) Downhill (Alpine) Signs

(A) Difficulty. The level of difficulty of each trail or slope at a ski area shall be identified by placement of the appropriate sign as indicated below. The sign shall be placed in a prominent position at the top or start of each trail. Difficulty ratings shall be determined upon consideration of such factors as a trail's slope gradient, relative difficulty compared to other trails at the ski area, the difficulty as commonly understood in the ski industry, the trail width, normal grooming conditions, and any other condition commonly occurring on or around the trail. Signage commonly used in the ski industry that meets or exceeds these requirements may be used in place of this.

Depending upon the degree of difficulty of the trail or slope, the signs shall be marked as follows:

- (1) Easiest- signs shall consist of a green circle on a white background with the word "EASIEST" below the circle.
- (2) More difficult - signs shall consist of a blue square on a white background with the words "MORE DIFFICULT" below the square.
- (3) Most difficult- signs shall consist of a black diamond on a white background with the word "MOST DIFFICULT" below the diamond.
- (4) Expert- signs shall consist of two adjacent black diamonds on a white background with the word "EXPERT" below the diamonds.

(B) Caution

(1) Caution signs shall be posted when and where necessary to adequately alert skiers of known dangers of any slope or trail and shall be posted an adequate distance uphill to alert skiers of any snow grooming or snowmaking operation.

(2) A caution sign shall consist of an orange triangle on a white background with an exclamation point on a yellow background within the triangle. The word "CAUTION" shall appear below the triangle.

(3) A caution sign shall be used in conjunction with trail grooming. The sign shall have fastened to the bottom a 3 inch by 8 inch white sign with printing in contrasting color of the words "TRAIL GROOMING." Signage commonly used in the ski industry that meets or exceeds these requirements may be used in place of this.

(4) Caution signs shall be posted uphill of any snow grooming or snowmaking operation. The sign shall have an attachment measuring at least 4 inches by 14 inches affixed to the bottom with either the word "SNOWGROOMING" OR "SNOWMAKING" as appropriate. Signage commonly used in the ski industry that meets or exceeds these requirements may be used in place of this.

(C) Trail closed

A closed trail shall be marked by a sign consisting of a red octagon shape on white background with a black figure of a skier inside with a diagonal stripe passing through the skier. The word "CLOSED" shall

appear below the octagon. Signage commonly used in the ski industry that meets or exceeds these requirements may be used in place of this.

#### (D) Additional signage requirements

There shall be at least one sign in a prominent place within a ski area displaying each of the following:

- (1) A map showing all trails and their degree of difficulty.
- (2) An explanation and illustration of all signs and markers required by 526 CMR 10.16.
- (3) Notice to skiers as required by G.L. c.143, §71P stating the following:

No action shall be maintained against a ski area operator for injury to a skier unless as a condition precedent thereof the person so injured shall, within ninety days of the incident, give to such ski area operator notice, by registered mail, of the name and address of the person injured, the time, place and cause of the injury. Failure to give the foregoing notice shall bar recovery, unless the court finds under the circumstances of the particular case that such ski area operator had actual knowledge of said injury or had reasonable opportunity to learn of said injury within said ninety-day period, or was otherwise not substantially prejudiced by reason of not having been given actual written notice of said injury within said period. In a case where lack of written notice, actual knowledge, or a reasonable opportunity to obtain knowledge of any injury within said ninety-day period is alleged by such ski area operator, the burden of proving substantial prejudice shall be on the operator.

#### (E) Hydrant markers

Snowmaking hydrants located within or upon a slope or trail shall be marked by horizontally or diagonally striped orange and black poles. Markers shall be made out of slalom poles or other suitable material. These markers shall at all times extend above the snow a minimum of 5 feet.

#### (3) Cross country (Nordic) signs

(A) Difficulty. The level of difficulty of each trail or slope at a ski area shall be identified by placement of the appropriate sign as indicated below. The sign shall be placed in a prominent position at the top or start of each trail. Difficulty ratings shall be determined upon consideration of such factors as a trail's slope gradient, relative difficulty compared to other trails at the ski area, the difficulty as commonly understood in the ski industry, the trail width, normal grooming conditions, and any other condition commonly occurring on or around the trail. Signage commonly used in the ski industry that meets or exceeds these requirements may be used in place of this.

Depending upon the degree of difficulty of the trail or slope, the signs shall be marked as follows:

- (1) Easiest- signs shall consist of a green circle on a white background with a wavy stripe bisecting the green circle, and the word "EASIEST" below the circle.
- (2) More difficult - signs shall consist of a blue square on a white background with a pronounced white wavy stripe bisecting the square, and the words "MORE DIFFICULT" below the square.
- (3) Most difficult- signs shall consist of a black diamond on a white background with a white zigzag stripe bisecting the diamonds, and the word "MOST DIFFICULT" below the diamond.

(B) Trail markers. Trail markers shall be placed at appropriate intervals along each trail and consist of a blue diamond a minimum size of four inches by four inches. Signage commonly used in the ski industry that meets or exceeds these requirements may be used in place of this.

(C) Caution

(1) A caution sign shall be used where and when necessary to adequately alert skiers of any known dangers of any slope or trail at ski areas.

(2) A caution sign shall measure 6 inches by 8 inches and consist of an orange or red triangle on a white or yellow background with an orange or red exclamation point on a yellow background within the triangle. The triangle shall be on a white or yellow background. The word "CAUTION" shall appear below the triangle. Signage commonly used in the ski industry that meets or exceeds these requirements may be used in place of this.

(3) If used in conjunction with trail grooming, a caution sign shall have a 3 inch by 8 inch white sign with the words "TRAIL GROOMING" printed in contrasting color fastened to the bottom.

(D) Trail closed. A closed trail shall be clearly marked by a 6 inch by 8 inch sign with a red octagonal shape on a white background with a black figure of a skier inside the octagon and a diagonal stripe passing through the skier. The word "CLOSED" shall appear below the octagon. Signage commonly used in the ski industry that meets or exceeds these requirements may be used in place of this.

(E) Additional signage requirements. There shall be at least one sign in a prominent place within a ski area displaying each of the following:

- (1) A map showing all trails and their degree of difficulty.
- (2) An explanation and illustration of all signs and markers required by 526 CMR 10.16.
- (3) Notice to skiers as required by G.L. c.143, §71P stating the following:

No action shall be maintained against a ski area operator for injury to a skier unless as a condition precedent thereof the person so injured shall, within ninety days of the incident, give to such ski area operator notice, by registered mail, of the name and address of the person injured, the time, place and cause of the injury. Failure to give the foregoing notice shall bar recovery, unless the court finds under the circumstances of the particular case that such ski area operator had actual knowledge of said injury or had reasonable opportunity to learn of said injury within said ninety-day period, or was otherwise not substantially prejudiced by reason of not having been given actual written notice of said injury within said period. In a case where lack of written notice, actual knowledge, or a reasonable opportunity to obtain knowledge of any injury within said ninety-day period is alleged by such ski area operator, the burden of proving substantial prejudice shall be on the operator.

## 10.02: General Administrative Provisions

\* \* \*

### (2) Insurance.

- (a) The Ski Area Operator shall furnish proof of financial responsibility to satisfy claims for damages on account of any physical injuries suffered by any Rider by reason of any act or omission on the part of the Ski Area Operator in the minimum amount of \$1,000,000 **per occurrence naming the Commonwealth of Massachusetts as the certificate holder.**

\* \* \*

- (c) Any privately owned, non-profit ski area which has annual visits of less than 2000 skiers in the year preceding the filing of its application for licensure of its tramways may apply for exemption from 526 CMR 10.02(2)(a). If an exemption from the insurance requirement is granted by the Board, the licensee must clearly advise all ski visitors to the ski area by means of a written waiver of the lack of insurance. The waiver for all ski visitors under 18 years old must be signed by a parent or guardian. The licensee must maintain a record of all signed waivers for a period of one year. The signed waivers shall be subject to inspection by the Board or its designee.

In order to qualify for exemption pursuant to this section, the owner must submit the following items in place of the documentation required by 526 CMR 10.04(3)(a)(4):

- (1) proof of ownership of the ski area,
- (2) proof of non-profit status of the owner of the ski area,
- (3) documentation as to the number of skier visits from the preceding twelve month period, and
- (4) a copy of a waiver it will provide to all ski visitors advising of the lack of insurance. (The waiver shall be subject to the approval of the Board.)